

Part 4

Weapons of Mass Destruction

76-10-401 Definitions.

As used in this part:

- (1) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product, that is capable of causing:
 - (a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
 - (b) deterioration of food, water, equipment, supplies, or material of any kind; or
 - (c) deleterious alteration of the environment.
- (2) "Delivery system" means:
 - (a) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or
 - (b) any vector.
- (3) "Hoax weapon of mass destruction" means any device or object that by its design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction which does not:
 - (a) meet the definition of a weapon of mass destruction; or
 - (b) actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.
- (4) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:
 - (a) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or
 - (b) any poisonous isomer or biological product, homolog, or derivative of the substance under Subsection (4)(a).
- (5) "Vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.
- (6)
 - (a) "Weapon of mass destruction" means:
 - (i) any item or instrumentality that is designed or intended to cause widespread death or serious bodily injury to multiple victims;
 - (ii) any item or instrumentality that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
 - (iii) any disease organism, including any biological agent, toxin, or vector which is used or intended to be used as a weapon;
 - (iv) any item or instrumentality that is designed to release radiation or radioactivity at a level dangerous to human life and that is used or intended to be used as a weapon; or

- (v) any substance or material or combination which has been prepared or altered for use in the creation of a weapon described in Subsections (6)(a)(i) through (iv).
- (b) "Weapon of mass destruction" does not include firearms or rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

Repealed and Re-enacted by Chapter 166, 2002 General Session

76-10-402 Manufacture, possession, sale, use, or attempted use of a weapon of mass destruction prohibited -- Penalties.

A person who without lawful authority intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a weapon of mass destruction or a delivery system for a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system as those terms are defined in this section, is guilty of a first degree felony.

Enacted by Chapter 166, 2002 General Session

76-10-403 Manufacture, possession, sale, use, or attempted use of a hoax weapon of mass destruction prohibited -- Penalty.

Any person who without lawful authority intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction is a weapon of mass destruction is guilty of a second degree felony.

Enacted by Chapter 166, 2002 General Session

76-10-404 Exemptions.

This part does not apply to any member or employee of the Armed Forces of the United States, allied armed forces personnel, a federal or state governmental agency, or a private entity, who is engaged in lawful activity within the scope of his or her employment, if the person is authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section and if the person is in compliance with applicable federal and state law.

Enacted by Chapter 166, 2002 General Session

76-10-405 Reimbursement of government response expenses.

In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this part to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Enacted by Chapter 166, 2002 General Session